

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Acceleration of Broadband Deployment:)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of)	
Broadband Deployment by Improving Policies)	
Regarding Public Rights of Way and Wireless)	
Facilities Siting)	

COMMENTS OF SPRINGFIELD, OREGON

These Comments are filed by SPRINGFIELD, Oregon in response to the Notice of Inquiry (Notice), released on April 7, 2011, in the above-entitled proceeding.

INTRODUCTION

The City of Springfield is the ninth largest city in the State of Oregon, with a population of 59,403, according to the 2010 Census. It is located at the southern end of the Willamette Valley, about 100 miles south of the City of Portland and immediately to the east of the City of Eugene, with which we share a boundary. With Eugene, we are the southernmost major city in Oregon on the heavily travelled I-5 corridor, which is the primary route serving most industrial and commercial development in the state, and a major route for telecommunications facilities for the entire West Coast.

Springfield is the Oregon home of several major high tech industries, including Symantec, which employs over 1,100 people in Springfield. It is also the home of the largest regional medical facility between Portland and Sacramento, Peace Health's Sacred Heart

Medical Center at River Bend campus, a 333-bed facility with about 2,200 employees, and with an associated cardiovascular institute. Fortifying its place as a major regional health care center, Springfield is also the home to McKenzie-Willamette Hospital, and to numerous ancillary medical clinics and service facilities adjacent to the two hospitals. All of the facilities are highly dependent on access to advanced levels of broadband communication.

Although the campus of the University of Oregon is located in adjoining Eugene, Springfield is the residence of choice for a substantial number of University students. The University is frequently cited is one of the most “wired” universities in the nation and, as a result, its students are heavy consumers of a wide range of broadband services and its faculty and researchers are further interconnected with the medical facilities/community described above.

The City of Springfield and its citizens are currently served by two facilities based telecommunications providers¹. One, the incumbent local exchange carrier, provides basic telephony and a variety of broadband services to business and residences. The second, the local cable television provider, provides television services, telephony, and broadband services. There are also a number of non-facilities based providers who provide service within the City, using the facilities of the two facilities based providers, and facilities owned and operated by the municipal electric utility. The municipal electric utility does not provide telecommunications services other than transport for other providers.

Springfield, like most cities, provides certain utility services to its citizens directly, or through its municipal partner, the Springfield Utility Board. These services include wastewater conveyance and treatment, storm drainage conveyance and management, potable water and electricity. It provides these services, in large part, using the rights of way that the citizens have

¹ There may also be other facilities based providers who have some level of services within the City, but since they refuse to comply with City laws requiring licensing of utilities, it is not possible to confirm whether or not they are present.

dedicated to be managed by the City. It also facilitates that provision of other utility services that are available from private providers, such as natural gas for heating and cooking, and telecommunications and cable television. In doing so, as it must, the City balances the needs and requirements of each provider to make optimum use of the citizen's rights of way while still allowing for the efficient movement of people and goods in commerce.

The Notice of Inquiry appears to proceed from the erroneous assumption that there are not other public needs served by the rights of way managed by local governments. In that connection, the City wishes to associate itself with the comments of the Oregon Chapter of the American Public Works Association, which detail the many competing demands for uses of public rights of way. More directly, with respect to the City of Springfield, the Notice of Inquiry appears to proceed from the assumption that there exist impediments to the deployment of advanced broadband services that are outside of the control of the telecommunication providers. Many of these impediments are alleged to lie at the doorsteps of the local governments who, as trustees for the citizens of their communities, manage public rights of way. What is completely ignored is the responsibility that local governments have to be stewards of the citizen's property. Local governments do not manage rights of way for the benefit of the governmental institution, they do not manage rights of way for the benefits that it provides to the providers of services, they manage rights of way to act as the united voice of its citizens, speaking through their elected representatives, to preserve and operate assets for which, in Springfield's case, the citizens have used more than half a billion of their tax dollars. It is assumed, without a shred of evidence offered in support, that the citizens' property is fair game for the industry, if only the local government trustees would step out of the way. As is more than adequately demonstrated by the experiences and practices of Springfield, that assumption is wholly without merit.

There are a number of long haul fiber facilities that pass through Springfield. These facilities were installed by Pacific Fiber Link, Williams Communications, and Level 3 Communications and consisted of several reaches of multi-strand fiber optic cable. All of these facilities are now consolidated under the ownership of Level 3. Immediately southeast of the city, and abutting the City's urban growth boundary, is a major interconnection and regeneration facility where fiber optic cables running from at least Vancouver, B.C. to San Diego, CA interconnect with cables reaching to the Trans Pacific cable just north of Bandon, OR, and to cables running east across the Cascade Mountains. There are several access points to these cables within the City, at least three of which offer opportunities for interconnection between different reaches of fiber. However, none of these facilities provide benefit to the citizens because the owners and operators of those facilities do not choose to provide service. When those facilities were installed at the end of the 20th century, local governments through which they passed were united in their request that these businesses provide access to their facilities and service to our citizens. Those businesses, however, followed a business model which had them providing only the long-haul backbone, leaving to other companies (such as Qwest, Verizon and other providers of end user service,) the role of meeting public demand for telecommunications.

Among the facts that demonstrate that the City acts to encourage and support the provision of advanced telecommunications services rather than as an impediment, are the following:

Timeliness, Ease, and Reasonableness of the Permitting Process and Charges

1. To the extent permitted by federal and State law, and consistent with section 253 of the Telecommunications Act of 1996, the City imposes uniform and competitively neutral

fees for use of the rights of way on all utility providers. Federal law (the Internet Tax Freedom Act) precludes the imposition of taxes on unbundled internet access services, and state law imposes a different fee, on a different revenue base, for telephony provided by the incumbent local exchange carrier.

2. Beyond that uniformity, the City also imposes right of way use fees on its own local wastewater collection and conveyance, and storm water management utilities.
3. City regulations on access to, and work in, the rights of way are uniform for all users of the rights of way for non-transportation purposes.
4. The City offers any utility information on any and all work being scheduled within the right of way so that they may elect to participate in placing facilities they require at the same time, to reduce cost and avoid inconvenience to the public and to the company. This occurs both in the context of the City's annual adoption of a five year Capital improvement Program and at the time of preconstruction meetings for each individual project.
5. The City actively encourages and facilitates joint trenching to the extent permitted by the relevant safety standards applicable to each utility's facilities.
6. The City's policies call for consideration of installation of empty conduit in all street modernization projects and those reconstruction projects where it is feasible. This conduit is made available to telecommunications providers on a competitive neutral basis.
7. As noted above, the local municipal electric utility has installed fiber optic cable in an approximately 22 mile long ring within the City. The primary purpose of that fiber is to provide SCADA for its distribution facilities. It does, however, make that fiber available to telecommunications providers at non-discriminatory and competitively neutral rates.

The existence of this fiber ring could substantially diminish the cost of provisioning advanced broadband services to Springfield businesses and residents, yet few telecommunications providers show any interest in taking advantage of the facilities.

Where there is interest, it is in incremental, point to point solutions or in persuading the utility to become a telecommunications provider so that other entities can lease bandwidth.

8. The City, working with several other local jurisdictions (both cities and counties) has agreed to forego right of way use fees on certain telecommunications providers who do not provide local services in return for indefeasible rights of use to dark fiber optic cable installed by those providers. This fiber was installed in 1999 and 2000 and, for the past 10 years has been offered to private telecommunications providers in an effort to substantially decrease the capital investment required for them to provide service in the area. The only telecommunications provider who attempted to take advantage of that offer ultimately defaulted on its commitment. No major telecommunications providers have ever expressed any interest in using this fiber to provide service. The partnership of governments has now secured a BTOP Grant in an effort to install middle mile services as a further inducement to private providers to enter the market and provide service. It remains to be seen if any providers will take advantage of this initiative. The partners have determined that they do not wish to provide service in competition with a potential private sector provider.

Experience Implementing Local Regulations Related to Rights of Way and Wireless Facilities Siting

9. While the City does require licensing of all utility providers, the fee associated with this license is nominal, and was reduced to \$1,000 effective July 1, 2011. This license assures that the City has knowledge of those utilities, including telecommunications providers, who offer service or locate facilities within the City, so that we can facilitate coordination of construction and otherwise simplify their ability to provide service within the City. License requirements are kept to a minimum and consist only of an identification of the provider, the nature of the services to be provided, and assurance that all other permits, if any, required to provide the service to be provided have either been secured or applied for². No applicant has ever been denied a license, and the typical review time has been reduced to approximately one week.
10. To date, no provider seeking to use the rights of way for installation of facilities to provide broadband service has been denied permission. According to the National Broadband Map, as of June 30 2010, 100 percent of the population of Springfield has access to at least two forms of broadband service, and 99.4 percent have access to a third broadband service.³ There appears to be no factual basis to conclude that local management of the rights of way has prohibited, or had the effect of prohibiting, or interfered with broadband deployment.

Solutions

Springfield shares the Commission's interest in accelerating the deployment of broadband infrastructure at the fastest possible rate. We believe our experience, and the

² Springfield Municipal Code 4.604

³ See attached report.

experience of virtually every other city in the country, demonstrates without doubt that the fees associated with using our citizen's public property for private purposes and the need to assure that the rights of way are managed for the safety and health of the public, have absolutely nothing to do with the deployment of broadband infrastructure. As every report on implementation of the National Broadband Plan demonstrates, deployment of broadband is much more intensive in urban and suburban areas, where the cost of permitting is higher, and the complexity of the permitting process is greater. Where there are fewer constraints, in rural areas, the rate of deployment is lower. It isn't rocket science – there is more money to be made in urban areas, and that is where the industry efforts are concentrated. On the other hand, we also believe that the Commission and the Congress can accelerate the deployment of broadband infrastructure in two ways: by lowering the portion of the deployment cost that is represented by the cost of the capital investment required to place facilities in rights of way and by incentivizing competition.

In the first instance, it is clear that a major cost in deploying facilities based systems is the capital investment to place the physical facilities. In that context, the greatest cost element is the cost of construction – trenching and surface repair, or boring of pathways for the installation of fiber. We urge the Commission to create financial incentives for every jurisdiction in the country to install conduit and empty vaults as a routine practice in any infrastructure construction project. Clearly, the states and most local governments have no resources to fund the installation of facilities to support telecommunication, but do have limited resources to repair and maintain their existing facilities, and, in some cases, funding for expansion of facilities. If every time a wastewater or storm drainage line was laid, or a street built or repaired, the local authority was able receive external funding to install conduit and vault space which could be made available to

telecommunications providers at minimal expense, because the cost of the installation had been federally funded, the process of extending new telecommunications facilities could be reduced to a fraction of the existing cost. S. 1056, the Safe and Complete Streets Act of 2011, sponsored by Senator Harkin and several others recognizes the importance of providing for the needs of all users of the transportation system. While that bill is focused on the needs of those that need to use the traveling surface, is it any less the case that a street is not truly complete until it also provides a route for the “information superhighway?”

Secondly, we believe that effective competition can have a positive effect on reducing the cost of broadband services. But to be effective, the competition must be real and provide an actual alternative. In that connection we believe the Commission and the Congress should take exactly the opposite course that many wish them to embark on, and should instead financially support the extension of municipal and other public broadband networks. With adequate federal support, these networks, operating without profit, could provide a truly effective competitor to the current approach of the industry, which is to focus only those situations where an immediate positive return on investment is available and to avoid those areas where a longer time is required to generate a positive return. The Congress has recognized this by its action to create the Broadband Technology Opportunities Program which, through December 2010, had obligated almost \$3.5 billion in infrastructure projects that could serve as many as 40 million residents and 4 million businesses.⁴ Many of the projects are public, or public/private partnerships, that facilitate and encourage private investment. For example, many projects are similar to one awarded to the Lane Council of Governments in Oregon. That project is a “middle mile” effort which does not impede private sector investment in advanced broadband but rather facilitates it

⁴ The Broadband Technology Opportunities Program, “Expanding Broadband Access and Adoption in Communities Across America,” Overview of Grant Awards, National Telecommunications and Information Administration, December 14, 2010.

by using resources developed by a number of local governments in Oregon, including the city of Springfield, to provide the backbone for private telecommunications providers to use in providing service. The Congress wisely chose to look to local government and local government partnerships. The Commission should not divert the effort to deploy broadband away from that course.

CONCLUSION

Springfield would like to thank the Commission for the opportunity to comment on how local governments are managing the rights of way to facilitate community development and expansion by serving the broad variety of users who can serve more efficiently by using the citizen's property. We appreciate the Commission's efforts to better understand the practices and policies surrounding cities' management of public rights of way. Springfield strongly encourages the Commission to consider its comments, as well as those submitted by all cities, before taking any action that may adversely affect the rights of way authority of cities. Springfield respectfully reminds the Commission that it must resist moving forward in any other context to act on any of the issues raised in the Notice until the record in this proceeding is complete.

Respectfully submitted,
Springfield, Oregon



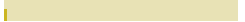
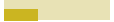





By: Leonard J. Goodwin
Assistant Public Works Director
225 Fifth Street
Springfield, OR 97477
July 15, 2011

Analyze » Summarize










State » Oregon
 Census Place » Springfield

Below is a summary of the broadband characteristics for the area listed above. The broadband data below is as of June 30, 2010 and represents data collected by SBDD grantees. Click on the section headings to see more information.

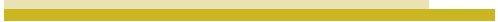

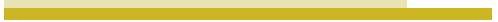
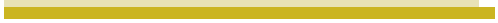

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Number of Wireline Providers	Percent Population	Nationwide
0	0.0% 	5.8%
1	0.1% 	15.3%
2	0.5% 	47.7%
3	6.8% 	21.5%
4	36.5% 	7.8%
5	56.2% 	1.2%
6	0.0% 	0.4%
7	0.0% 	0.3%
8+	0.0% 	0.1%


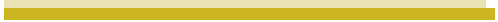
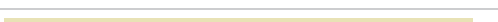
Source API Call

Number of Wireless Providers	Percent Population	Nationwide
0	0.0% 	1.5%
1	0.0% 	5.8%
2	0.0% 	10.6%
3	0.0% 	15.2%
4	0.0% 	27.6%
5	0.0% 	18.3%
6	1.5% 	11.6%
7	57.7% 	4.3%
8+	40.8% 	5.0%

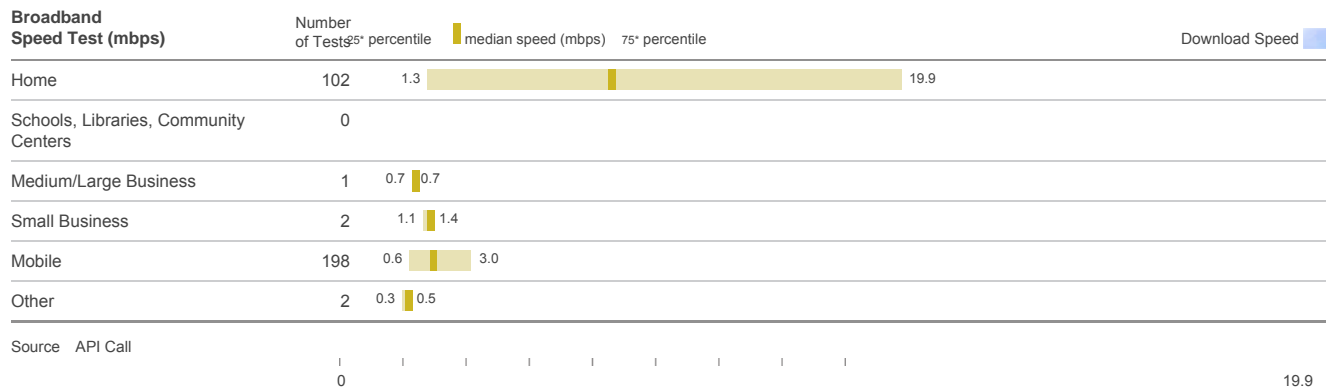
Source API Call

Technology	Percent Population	Nationwide
DSL	100.0% 	86.6%
Fiber	0.0% 	14.5%
Cable	99.4% 	82.2%
Wireless	100.0% 	96.9%
Other	0.0% 	1.5%

Source API Call

Speed	Percent Population	Nationwide
Unreported	0.0% 	0.6%
Download > 0.768 Mbps, Upload > 0.2 Mbps	100.0% 	98.3%
Download > 3 Mbps, Upload > 0.768 Mbps	100.0% 	95.5%

Source API Call



Community Anchor Institutions

Total Number of Records

Subscribe to Broadband

Yes No ? *

Download Speed

Schools K through 12	1	1	0	0	0
University, College, other post-secondary	0	0	0	0	0
Libraries	0	0	0	0	0
Medical / Healthcare	0	0	0	0	0
Public Safety	1	1	0	0	0
Community Centers - Government support	0	0	0	0	0
Community Centers - Non-Government support	0	0	0	0	0

Source API Call

Speeds provided *

BTOP Oregon State Funding

Recipient	Project	Total Award
State Data and Development		
Public Utility Commission...	State Data and Development	\$5,658,302
Infrastructure		
Bend Cable Communications...	Central Oregon Fiber Alliance	\$4,418,765
Lane Council of Governmen...	Oregon South Central Regional Fiber Consortium ...	\$8,325,530
University Corporation fo...	United States Unified Community Anchor Network ...	\$62,540,162
County of Clackamas	Clackamas Broadband Innovation Initiative	\$7,804,181
Public Computer Centers		
County of Crook	Crook County Computer and Education Center	\$3,908,064
Sustainable Adoption		
ZeroDivide	Generation ZD Digital Literacy Program	\$48,486
Communication Service for...	Project Endeavor	\$14,988,657
One Economy Corporation	21st Century Information and Support Ecosystem:...	\$28,519,482
Portland State University	Learner Web Partnership: A Multi-State Support ...	\$1,125,380

Source API Call



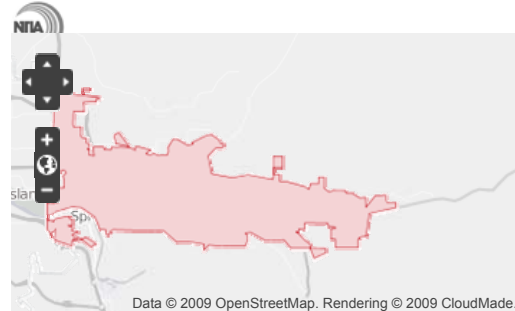
Applicant Name	Grant Request	Loan Request	Total Request
Cascade Networks, Inc.	\$578,316	\$578,316	\$1,156,631
Cascade Utilities, Inc.	\$3,898,299	\$1,299,433	\$5,197,732
Monroe Telephone Company	\$4,241,050	\$1,413,684	\$5,654,734
Trans-Cascades Telephone Company	\$1,770,294	\$590,099	\$2,360,393
Warm Springs Telecommunications Company	\$2,722,960	\$2,722,960	\$5,445,920
Sacenet	\$7,530,000	\$0	\$7,530,000
Echostar XI Operating LLC	\$14,159,250	\$0	\$14,159,250
TA-Grants			
Warm Springs Telecommunications Company	\$200,000	\$0	\$200,000

Source API Call

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The **National Broadband Map** is a tool to search, analyze and map broadband availability across the United States. Created and maintained by the **NTIA**, in collaboration with the **FCC**, and in partnership with 50 states, five territories and the District of Columbia.



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Demographics

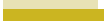

Total area (sq miles)	23
Population	59,715
Households	23,487

Age	Area (%)	Nationwide
under 5	6.4%	7.2%
5 - 19	20.3%	20.7%
20 - 34	20.9%	19.9%
35 - 59	34.8%	33.6%
60+	17.7%	18.7%

Race	Area (%)	Nationwide
White	78.9%	58.9%
Black	1.1%	12.2%
Hispanic	15.7%	23.0%
Asian/Pacific Islander	2.4%	4.9%
Native American	1.8%	1.1%

Income	Area (%)	Nationwide
Median income	\$42,852	\$52,718
Poverty rate	16.2%	13.9%
Below \$25k	29.4%	24.3%
\$25k-\$50k	27.4%	24.9%
\$50k-\$100k	30.6%	30.7%

\$100k-\$200k	10.5%		16.1%
\$200k or more	2.1%		4.0%

Education	Area (%)		Nationwide
High School graduate	89.7%		84.2%
Bachelor's degree or higher	27.3%		27.3%

Source API Call

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Diving Deeper into the Data
posted by Eric Spry on May 27, 2011

Updates »

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